

Notice of Allowability

Application No.

10/629,007

Examiner

Julian W. Woo

Applicant(s)

DAKIN ET AL.

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 1/4/07.
2. ☒ The allowed claim(s) is/are 1-6, 8, 11-22, 24, 26, 28-30, 32-39 and 41-60.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in telephone interviews with Frank Piskolich, Reg. No. 52,123, on March 21, 23, and 27, 2007.

2. The application has been amended as follows:

In the specification, page 1, before "FIELD OF THE INVENTION," insert a new paragraph:

--This is a continuation-in-part of U.S. patent application no. 10/115,446, filed April 2, 2002, now abandoned, which is a continuation of U.S. patent application no. 09/162,036, filed September 28, 1998, now U.S. patent no. 6,368,326. --.

In claim 1, line 9, after "it," insert -- , the at least one fastener including a lock for locking the cord to the fastener through which it passes, wherein the opening comprises a bore at least partially threaded and within which the cord extends, and wherein the lock comprises a threaded member threadingly received in the bore and capable of engaging the cord to restrain cord movement--.

In claim 8, line 2, delete "pharmaceutical" and in its place, insert –
pharmaceuticals--.

In claim 11, line 1, delete "10" and in its place, insert –1--.

Cancel claim 10.

3. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: In figure 15B, the term "Fig." should be removed from the middle of the drawing. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

4. The following is an examiner's statement of reasons for allowance. With respect to claims 1-6, 8, 11-22, 24, 26, 28-30, 32-39, and 41-54: None of the prior art of record, alone or in combination, discloses an orthopedic or bone fracture reduction system and a method with the system including, inter alia, a length of flexible, inelastic cord, first and second fasteners, and an axially rigid tubular support; where one of the fasteners includes a threaded bore and a lock that is a threaded member, and where the method includes the tubular support contacting and extending between first and second bone segments after the tubular support has been advanced over the cord, which has been attached to a first bone fragment via an internal fastener, and where the method further includes drawing the cord through a bore in a second bone fragment to draw the fragments together.

With respect to claims 55-60: None of the prior art of record, alone or in combination, a method for reducing a bone fracture, where the method includes, inter alia, attaching a flexible cord from within the bone interior to a first bone fragment, attaching an internal pulley bearing the cord to a second bone fragment, passing an end of the cord through an opening in a third bone fragment, and advancing first and second axially rigid tubular supports over the cord or advancing an axially rigid tubular support over the cord and tensioning the passed through the third bone fragment. Also, none of the prior art of record discloses a bone fracture reduction system including, inter alia, an internal fastener, a pair of flexible inelastic cords attached to the internal fastener, a pair of axially rigid tubular supports, and a pair of external fasteners.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Treace (3,953,896) and Overaker et al. (2003/0187444) teach fixation systems.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is 571-272-4707. The examiner can normally be reached on M-TH:6:30-4:00; alt. Fri.: 6:30-3:00.

Art Unit: 3731

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Julian W. Woo
Primary Examiner
Art Unit 3731

March 27, 2007